

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

FILED  
IN CLERKS OFFICE

WAQAR AHMAD,

Plaintiff,

v.

JOSEPH MOTRUCINSKI

Defendant.

Civil Action No.:

2005 FEB 10 P 3:49  
05 CT 10278 NG  
U.S. DISTRICT COURT  
DISTRICT OF MASS.  
RECEIVED  
AMOUNT \$ NA  
SUMMONS ISSUED NA  
LOCAL RULE 4.1  
WAIVER FORM  
WCF ISSUED  
BY DPTY. CLK. m.f.  
DATE 3/10/05

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS** MEB

Joseph Motrucinski, by and through his attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby files this notice of removal, and as grounds for such removal states as follows:

1. Joseph Motrucinski is a named defendant in the action styled Waqar Ahmad v. Joseph Motrucinski, Docket No.04-SC-449, now pending in the Small Claims Session of the Trial Court of Massachusetts, Boston Municipal Court Department, Massachusetts.
2. In that action, plaintiffs make allegations of, *inter alia*, negligence in the operation of motor vehicle. For the relevant time period, Mr. Motrucinski was an employee of the United States of America. Pursuant to 28 U.S.C. §2679, plaintiffs' exclusive remedy for injury arising from the alleged negligent acts of an employee of the United States is a suit against the United States under the provisions of the Federal Tort Claims Act.

If filed in a state court, such actions are removable to United States District Court at any time before trial. 28 USC § 2679. This action is therefore removable to this Court.

3. No previous application for removal of this action has been made.
4. A copy of the pleadings filed in the Small Claims Court and available to the

government at this time are attached hereto.

WHEREFORE defendant Joseph Motrucinski prays that this action be entered upon the docket of this Court and, upon filing a copy of this Notice with the Clerk of the Small Claims Session of the Trial Court of Massachusetts, Boston Municipal Court Department, that the Small Claims Session of the Trial Court of Massachusetts, Boston Municipal Court Department, shall proceed no further.

By its attorney,

MICHAEL J. SULLIVAN  
United States Attorney

By:

Christopher Alberto  
Assistant U.S. Attorney  
1 Courthouse Way  
Suite 9200  
Boston, MA 02210  
(617) 748-3100

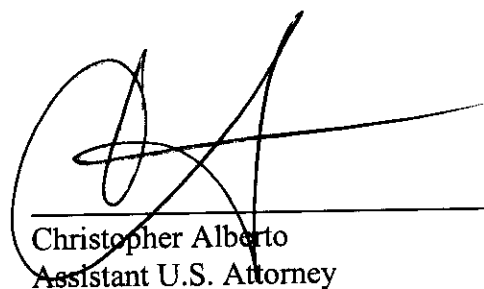
Dated:

2/10/05

**CERTIFICATE OF SERVICE**

I, Christopher Alberto, Assistant U.S. Attorney, do hereby certify that I have this 10 day of February, 2005 served a copy of the foregoing Notice of Removal by First Class Mail upon:

Waqar Ahmad  
39 Shepard St.  
Brighton, MA 02135  
(617) 319-3447



Christopher Alberto  
Assistant U.S. Attorney

**STATEMENT OF SMALL CLAIM  
AND NOTICE OF TRIAL**For Court  
Use Only.

DOCKET NO.

Document 1

Filed 02/10/2005

Page 1 of 1

Trial Court of Massachusetts  
Small Claims Session

PART 1	<input type="checkbox"/> <b>BOSTON MUNICIPAL COURT</b>	<input type="checkbox"/> <b>DISTRICT COURT</b>	<input type="checkbox"/> <b>HOUSING COURT</b>
	Division		FILED Division
PART 2	<b>PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE</b> WAGAR AHMAD 39 CHILDE ST BOSTON MA 02135 PHONE NO: 617-319-3447		<b>PLAINTIFF'S ATTORNEY (If any)</b> Name: _____ Address: 2005 FEB 10 P 4:11 U.S. DISTRICT COURT DISTRICT OF MASS. PHONE NO: _____ BBO NO: _____ <b>ADDITIONAL DEFENDANT (If any)</b> Name: ESTAL 1944B00009/30-04MDC Address: GENERAL 1944B00009/30-04SURCHARGE BOSTON - MA - 02205 PHONE NO: 617-654-5916
PART 3	<b>DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE</b> MOTRICKINSKI JOSEPH 110 E MAIN ST WELSTER - MA 01570 PHONE NO: _____		
PART 4	<b>PLAINTIFF'S CLAIM.</b> The defendant owes \$ <u>2089</u> plus \$ _____ court costs for the following reasons: Give the date of the event that is the basis of your claim. <u>ON 9/30/04 at about 12:15 PM MR. MOTRICKINSKI ran</u> <u>the red light while driving postal police vehicle and</u> <u>hit my right front bumper of my car</u> <u>in the home I was told by the postal police</u> <u>to file a claim with them and provided me all</u> <u>the information how to claim it. But now that</u> <u>I filed the claim, they require to pay me</u> <u>and denying any wrong doing.</u> SIGNATURE OF PLAINTIFF <u>X</u> <u>W. Wagar</u> DATE <u>09/30/04</u>		
PART 5	<b>MEDIATION:</b> Mediation of this claim may be available prior to trial if both parties agree to discuss the matter with a mediator, who will assist the parties in trying to resolve the dispute on mutually agreed to terms. The plaintiff must notify the court if he or she desires mediation; the defendant may consent to mediation on the trial date. <input type="checkbox"/> The plaintiff is willing to attempt to settle this claim through court mediation.		
PART 6	<b>MILITARY AFFIDAVIT:</b> The plaintiff states under the pains and penalties of perjury that the: <input type="checkbox"/> above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address. <input type="checkbox"/> above defendant(s) is (are) serving in the military SIGNATURE OF PLAINTIFF _____ DATE _____		
NOTICE OF TRIAL	<b>NOTICE TO DEFENDANT:</b> You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right. If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney. <b>SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM</b>		<b>NAME AND ADDRESS OF COURT</b> BOSTON MUNICIPAL COURT DEPARTMENT BRIGHTON DIVISION 52 ACADEMY HILL ROAD BRIGHTON, MA 02135 <b>DATE AND TIME OF TRIAL</b> <u>2-16-05</u> AT <u>2pm</u> DATE TIME ROOM NO. _____
	FIRST JUSTICE _____ CLERK, MAGISTRATE OR DESIGNEE <u>Capri</u>	BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED <b>▼ COURT USE ONLY ▼</b>	

INSTRUCTIONS FOR FILING A SMALL CLAIM — You must complete Parts 1-6 of this form. See instructions on reverse.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Waqar Ahmad v. United States

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

— I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

— II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.

\*Also complete for patent, trademark, or copyright cases.

— III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

— IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

— V. 150, 152, 153.

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3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐ NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐ NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐ NO ☒7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).YES ☐ NO ☒A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Christopher AlbertoADDRESS U.S. Attorney's Office, One Courthouse Way, Suite 9200, Boston, MA 02110TELEPHONE NO. (617) 748-3311

(CategoryForm.wpd - 11/27/00)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Waqar Ahmad

## DEFENDANTS

Joseph Motrucinski

FILED  
IN CLERKS OFFICE

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THIS SECTION OF COURT  
LAND INVOLVED. DISTRICT OF MASS.

(c) Attorney'S (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Christopher Alberto for USA  
1 Court House Way, Suite 900  
Boston, MA 02108

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## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- DEF
- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<b>LABOR</b>	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 892 Economic Stabilization Act
		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 894 Energy Allocation Act
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
			<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 950 Constitutionality of State Statutes
			<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions

## V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 USC, § 2679 Fed. Tort Claims Act

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$2,100

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/10/05

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE